

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 9536 of 1996

For Approval and Signature:

Hon'ble MR.JUSTICE N.N.MATHUR

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

ANWARHUSAIN B SHAIKH

Versus

STATE OF GUJARAT

Appearance:

MR HR PRAJAPATI for Petitioner

MR UA TRIVEDI, AGP for respondent

CORAM : MR.JUSTICE N.N.MATHUR

Date of decision: 09/12/96

ORAL JUDGEMENT

1. By way of this Special Civil Application, the petitioner has challenged the order of detention dated May 27, 1996 passed by the Commissioner of Police, Ahmedabad in exercise of powers under sub-section (2) of section-3 of the Gujarat Prevention of Anti Social Activities Act, 1985 (hereinafter referred to as 'the PASA Act, 1985').

2. It is contended by the learned counsel that the

detenue made a representation to the Hon'ble Chief Minister by Registered Post A.D. on 08/11/1996. The detenue has not been informed as to whether the said representation has been considered by the State authorities or not. It is further submitted that it is obligatory upon the State Government to satisfy this Court that the said representation has been considered as expeditiously as possible. In failing to do so, the continued detention of the petitioner becomes violative of Art. 22(5) of the Constitution of India.

3. This Court, by an order dated 22/11/1996 made the rule returnable on 03/12/1996. The matter was taken up on 04/12/1996 and it was adjourned to 09/12/1996 with a view to give an opportunity to the respondent to explain as to how the representation dated 08/11/1996 has been considered.

4. Shri Raj Gopal, Deputy Secretary, Home Department, Sachivalaya, Gandhinagar has filed an affidavit stating that the representation dated 08/11/1996 addressed to the Hon'ble Chief Minister was received in the Home Department on 05/12/1996. Thus, it clearly appears that the representation remained pending with the State Government during the period from 08/11/1996 to 05/12/1996 unattended.

5. In view of the aforesaid, the continuous detention of the petitioner being violative of Art. 22(5) of the Constitution of India is illegal and hence, this Special Civil Application deserves to be allowed.

6. In the result, this Special Civil Application is allowed. The impugned order of detention dated 27/05/1996 is quashed and set aside. The petitioner - detenue shall be released forthwith, if he is not required in any other case. Rule is made absolute.

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